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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,834	06/27/2003	Luther W. McClellan		7606
7590	05/26/2005		EXAMINER	
Kevin L. Klug 11237 Concord Village Ave. St. Louis, MO 63123-6903			CARTAGENA, MELVIN A	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/608,834	MCCLELLAN, LUTHER W.
	Examiner	Art Unit
	Melvin A. Cartagena	3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11142003.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-6, 9, 12, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2,946,488 to Kraft.

Kraft shows a dispensing system as seen in Figs 1-3, having storage tanks 1 and 35, synchronic coupled pumps 13 and 44, pump intake ports 23 and 48, pump discharge ports 25 and 50, a dispensing head and mixing head 11, check valves 129 and 129, hinged plate 15 with one side pivotably hinge on axis 16, drive 13 with piston 12 and connecting rod 14 inside hydraulic cylinder 13, having a displacement  $d_1$  and the connecting rod 14 connected to the hinge plate at a distance  $L_1$  from the axis 16, a piston 43 and connecting rod 45 inside cylinder 44 where the displacement  $d_2$  of piston 43 and connecting rod 45 connected to the hinged plate at a distance  $L_2$  from the axis 16 is defined as;  $d_2 = (d_1/L_1)*L_2$ , the motion of the plate 15 is controlled by limiting switches 19 and 20, heat chamber 5, compressed air provided to the dispensing nozzle and controlled by valve 150 and mounting brackets 17 and 43.

3. Claims 1, 8, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,921,133 to Roeser.

Roeser shows an apparatus for precision pumping as seen in Figs. 16-17, having holding tanks 270, an auger 134 positioned within the tanks, synchronously coupled pumps 48 with

inputs 50 and outputs 66, dispensing and mixing head 70, O-rings 122a placed in recesses to seal bores and maintain pressure and pin type valves, see column 3, lines 37-44.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 7, 17, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2,946,488 to Kraft in view of US 4,775, 303 to Liska.

Kraft shows all claimed features as discussed above except for a check valve within the piston and one check valve within the intake port. Liska shows a pump having a piston 53 with a check valve 74 that opens when the piston moves towards the inlet 41 of the cylinder 13 and closes when the piston moves away from the cylinder inlet. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use a check valve within the piston of the pump of Kraft as taught by Liska to produce a discharge of fluid under pressure during reciprocatory movement of the piston in both directions.

6. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2,946,488 to Kraft in view of US 4,921,133 to Roeser.

Kraft shows all claimed features as discussed above except for an auger located within the holding tanks. Roeser shows a pumping apparatus with augers 134 positioned within the holding tanks. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to use an auger within the holding tanks in the device of Kraft as taught by

Roeser to produce a constant positive evacuation pressure on the material at all times during operation of the device.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2,946,488 to Kraft in view of US 3,730,105 to Holley.

Kraft shows all claimed features as discussed above except for a carriage to transport the dispensing device on a railroad rail. Holley shows a convertible rail highway vehicle. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to mount the device of Kraft on any suitable transport including the railroad convertible vehicle of Holley to transport the dispensing device to where it is need, since transporting equipment by railroad for shipping or for railroad maintenance is well known in the art.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schuller shows a piston pump. Ballow shows a two-component mixer. Gilbert shows a mixture-metering machine. Pulk shows a device for batching of media. DeFillipi shows a two part stream dispensing for high viscosity material. Skillman shows a pump valve apparatus.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on M-F (7:30AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAC 5/20/05  
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